

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**TROY SOUNDERS, et al.**

**Plaintiffs,**

**v.**

**SCHOOL DISTRICT OF PHILADELPHIA,**

**Defendant.**

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**Civ. No.: 18-2167**

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**ANSWER TO PLAINTIFFS' COMPLAINT**  
**WITH AFFIRMATIVE DEFENSES**

Defendant, The School District of Philadelphia, by and through its undersigned counsel, John J. Coyle, Assistant General Counsel, hereby files an Answer to Plaintiffs' Complaint, together with Affirmative Defenses, and avers as follows:

**Preliminary Statement**

1. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

**Jurisdiction and Venue**

2. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

3. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

**Procedural Background**

4. Admitted.

5. Admitted.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted.

15. Admitted.

16. Admitted.

17. Admitted.

18. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

19. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

**Factual Background**

20. Admitted.

21. Admitted.

22. Admitted.

23. Admitted.

24. Admitted.

25. Admitted.

26. Admitted.

27. Admitted.

28. Admitted.

29. Admitted.

30. Admitted.

31. Denied as stated.

32. Admitted.

33. Admitted.

34. Admitted.

35. Admitted.

36. Admitted.

37. Admitted.

38. Admitted.

39. Admitted.

40. Admitted.

41. Admitted.

42. Denied as stated. By way of further response, the District created a Notice of Recommended Educational Placement (“NOREP”) for Plaintiff for an educational program of “Instruction in the Home.” This was to be a temporary service to provide Plaintiff educational opportunities until a more permanent placement could be determined. However, the parents of Plaintiff never signed the NOREP prepared by the District.

43. Admitted.

44. Admitted.

45. Denied as stated. By way of further response, the District created a Notice of Recommended Educational Placement (“NOREP”) for Plaintiff for an educational program of “Instruction in the Home.” This was to be a temporary service to provide Plaintiff educational opportunities until a more permanent placement could be determined. However, the parents of Plaintiff never signed the NOREP prepared by the District.

46. Admitted.

47. Denied.

48. Denied.

49. Denied.

50. Denied.

51. Denied.

52. Denied.

53. Denied.

### **Legal Claims**

#### **COUNT I**

54. Paragraphs 1 through 53 are incorporated herein by reference.

55. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

56. Admitted.

57. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

58. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

59. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

60. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

## **COUNT II**

61. Paragraphs 1 through 60 are incorporated herein by reference.
62. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.
63. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.
64. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.
65. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

## **COUNT III**

66. Paragraphs 1 through 65 are incorporated herein by reference.
67. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.
68. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.

69. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.
70. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.
71. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.
72. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.
73. The allegations contained in this paragraph constitute conclusions of law and/or the plaintiff's statement of the case and, therefore, require no response. To the extent a response is required, denied.
74. Answering Defendant is without sufficient information to form a belief as to the veracity of this paragraph. Therefore, the paragraph is denied.
75. Answering Defendant is without sufficient information to form a belief as to the veracity of this paragraph. Therefore, the paragraph is denied.

**Relief Requested**

Answering Defendants deny that they are liable on the causes of action declared herein, and demand judgment in their favor plus interest and costs.

## **AFFIRMATIVE DEFENSES**

### **FIRST AFFIRMATIVE DEFENSE**

Plaintiffs have failed to state claims upon which relief may be granted.

### **SECOND AFFIRMATIVE DEFENSE**

Plaintiffs' claims are barred in whole or in part by the applicable statute of limitations.

### **THIRD AFFIRMATIVE DEFENSE**

Plaintiffs have failed to plead an associational discrimination claim.

### **FOURTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to plead a cognizable cause of action under the Pennsylvania Human Relations Act.

### **FIFTH AFFIRMATIVE DEFENSE**

Plaintiffs have failed to exhaust their administrative remedies under the PHRA and/or the IDEA.

### **SIXTH AFFIRMATIVE DEFENSE**

Answering Defendant is immune from Plaintiff's state court claims pursuant to the Pennsylvania Legislature's grant of governmental immunity.

**WHEREFORE**, Answering Defendant denies that it is liable upon all causes of action declared upon and demand judgment in its favor, plus interest and costs.

/s/ John J. Coyle

John J. Coyle

Assistant General Counsel

PA ID: 312084

The School District of Philadelphia

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Philadelphia, PA 19130

p. 215.400.5117

Date: August 14, 2018



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**CERTIFICATION OF SERVICE**

John J. Coyle hereby certifies that service of a true and correct copy of the Defendant's Answer to Plaintiffs' Complaint with Affirmative Defenses was uploaded to ECF and thereby served upon all parties of record.

August 14, 2018

/s/ John J. Coyle

John J. Coyle

Assistant General Counsel

The School District of Philadelphia